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ABSTRACT

Three movements that have affected the structure of American postsecondary education are the development of governance by lay boards of control, the growth in power of state coordinating bodies, and the emergence of federal regulatory agency authority over postsecondary education. American postsecondary education has been characterized as "unplanned" and as a "nonsystem," because no agency of the national government has effectively determined the kind, number, or roles of postsecondary institutions. The roles of lay boards, the states, and the federal government are traced historically to the present. The following trends are projected: there will be a more coordinated structure in which the 50 states will develop their own more or less unified systems of postsecondary education; certain regional groupings will assume more significance, and private higher education, while retaining its independence, will in more ways be related to the evolving state systems; and in the latter quarter of the twentieth century, there will be significant change in the structure of postsecondary education. (SW)

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FORMATIVE INFLUENCES IN THE EVOLVING STRUCTURE OF AMERICAN POSTSECONDARY EDUCATION

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The form assumed by any postsecondary system of education at any point in time may be seen largely as the product of responses to the complex interaction of political, cultural, social and economic forces. The form evolves over time, shaped by key events or movements, but because the full impact of particular events or movements may not become immediately apparent, every attempt to assess the relative importance of these factors is inevitably complete. Yet, incomplete as they may be, such attempts are needful and useful.

This essay singles out three movements which seem particularly relevant to this writer in explaining how the American "nonsystem" has evolved and is evolving. Coming to bear at different points in the history of American postsecondary education, these movements are all operative at the present time, though with different force. The first of the three movements (governance by lay boards of control) is probably not as powerful an influence in shaping the current direction as is the second (the growth in power of state coordinating bodies) but more than the third (the emergence of federal regulatory authorities related to postsecondary education). What we have is an interplay of movements, one combination prevailing with one group of institutions, another combination prevailing with another, but all combinations reflecting an overall trend. To James Perkins this overall trend is international in scope and involves the movement from individual responsibility to greater coordination. He observes in nation after nation that "traditional independence and autonomy of institutions is giving way to state or national coordinating bodies," leading "to increased governmental participation in the affairs of universities and colleges."[1]

American postsecondary education has been characterized as "unplanned" and as a "nonsystem." The term "unplanned is probably inaccurate, unless to be "planned" requires that primary initiative must lie with national governmental agencies rather than with state or local more or less autonomous bodies. If such is the required meaning of the term, then postsecondary education in the United States has indeed been unplanned, because at no time has any agency of the national government effectively determined the kind, number or roles of postsecondary institutions institutions. On the other hand, since the 1940s some degree of national consensus has been developing in America regarding the nature and structure of the postsecondary institutions we now have. In the late 1960s the Carnegie Commission on Higher Education was able not only to develop a generally acceptable system for classifying these institutions, but also to locate by name most of the existing institutions into the system. Withal, the experience of the United States stands in vivid contrast to nations within which more direct national intervention is the rule.

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The development in the United States is similar to that in the United Kingdom in that many of the moves toward national planning date from the 1940s. But with the new role of the University Grants Committee in the 1940s, the creation of the Department of Education and Science, The Council for National Academic Awards serving in many respects as a national validating agency and the development of the Open University, the United Kingdom seems to have proceeded further in national planning of postsecondary education than has the United States. In the United States, while scores of federal agencies are involved in scores of funding projects, there is really no unified approach to federal assistance to postsecondary education. And pronouncements by the U.S. Office of Education under the Department of Health, Education, and Welfare carry far less weight than do the statements of the Department of Education and Sciences in the U.K. Perhaps the creation of a Department of Education at the Cabinet level, a move being given more serious consideration at this time, would increase federal impact -- although the traditional reservation of power over education to the states would still limit federal power.

This unplanned system in the United States -- Burton Clark refers to it as a deviant system[2]-- has been shaped in significant ways by three movements. The first is the development of governance by lay boards of control. The legal control of postsecondary institutions in the United States is vested in a representative group of lay persons which may number from five to more than fifty. These persons are "lay" in the sense that they do not hold membership as faculty or staff in the institution being governed and with few exceptions are non-academics. Some few American institutions do include student and/or faculty representation on the board of control, but such members are always clearly in the minority. Under law this lay board is the holding agency, the body ultimately responsible for the management of the assets of the institution. The board employs the president and establishes the general policy for the operation of the institution. Lay boards have been a part of postsecondary education since the establishment of Harvard in 1636.

The second movement is the growth in power of state coordinating bodies. It is the implied resonsibility of each of the 50 states to develop and control education within its respective borders. By the Tenth Amendment to the Constitution of the United States powers not otherwise delegated to the federal government are reserved to the states. Attempts to place education under the federal government failed during the Constitutional Convention, and education has remained a responsibility of the several states. The states were slow in assuming this responsibility; the significant development of state supported and state controlled education has been during the twentieth century, and state coordination has become a significant factor only since the 1960s.

The third movement is the emergence of federal regulatory agency authority over postsecondary education. By the Tenth Amendment the U.S. federal government is effectively removed from direct influence on education; there is no Constitutional mandate nor power to bring the federal government

directly into the operation of postsecondary education. Yet, particularly since the 1940s, the federal government has channeled substantial tax monies into postsecondary institutions. The federal government collects taxes and spends money. The money is spent for what the constituencies and Congress decide is important. The constituencies and Congress have decided that more funds should be directed to programs of postsecondary education. With the increased spending for programs in postsecondary education has come concern that the funds be spent wisely; there must be some form of accountability. Congress has established certain requirements that must be met by institutions that will participate in federal funding. The responsibility for ensuring that the these requirements are met lies with the U.S. Commissioner of Education. The Commissioner has, in turn, recognized certain independent accrediting agencies as reliable authorities in determing the quality of postsecondary educational institutions. And the monitoring of the reliability of the accrediting agencies has become the responsibility of the Division of Eligibility and Agency Evaluation of the U.S. Office of Education in the Department of Health, Education and Welfare. In addition, any postsecondary institution of education engaged in contract research or having any contract for services to the federal government must comply with the regulations applying to federal employment. In various ways regulatory agencies have begun to influence the shape and structure of postsecondary education.

There are other movements that have influenced and continue to influence the structure of America's postsecondary institutions. The three movements noted above, however, play highly significant roles in shaping postsecondary institutions in the United States in the 1970s and 1980s. The rest of this essay will explore the ways in which these influences are exerted.

The Lay Board of Control.--The lay board of control is generally a small (though boards can number as many as 100) group of persons who do not hold official positions in the institution and who represent a cross section of the public. Vesting control of the destiny of postsecondary institutions in a group of lay persons has characterized American colleges and universities from the beginning. Martorana even refers to the lay board as "the American idea" and contends that the degree of centralized and delegated power of control found in the lay board in the United States is to be replicated in no other system.

> The practice in the United States is strikingly different from that in other nations, not only in the high decentralization of authority for higher education, but in the fact that the holders of the authority are laymen. The large majority of individual members of these boards are not professionally engaged in the business of higher education.[3]

Burton Clark, who refers to the American system as a "deviant system," one that has evolved without planning and with a "bit of good luck" finds the existence of the lay board of trustees a critical component in promoting this deviant and disorderly system.[4]

While the lay board has been a critical force in the development of American postsecondary education, it is not a creation of the Americans. The Dutch and Scottish systems, as well as the English system of the nineteenth and twentieth centuries have made use of the town council and such groups to establish new universities. While in the United Kingdom Oxford and Cambridge have by virtue of their collegial structure and ancient traditions maintained control by the Masters, subject only in matters of the statutes to the Convocation or Senate, the newer universities, those established after London and Durham, began as essentially private or local enterprises and were initially heavily dependent upon the support of the lay constituency.

> Higher education in the industrial cities of Victorian England began as private enterprise, financed by a joint stock company, as was University College, London; or by individual benefactors, as were Owens College, Manchester, and Mason College, Birmingham; or by groups of citizens, as were the colleges in Leeds and Liverpool.[5]

The trustees of the funds secured for the institutions acted as governing bodies, regarded the professors as employees, and took as their responsibility as trustees " to decide policy in the college they governed." In time, this power dwindled. The two-tier system emerged, with general control in the predominately lay body, the Council, which controlled finance and property, and with control of the academic program in the Senate. The role of the Senate has become so firmly established that "it is regarded as an inalienable right, that on all academic matters initiative lies with the academic staff," so that if the lay Council were to issue an instruction to the Senate, there would be "massive obsruction, a dragging of feet, and even murmurs about infringement of academic freedom, notwithstanding charters and statutes which unambiguously confer soverignty on the lay council."[6]

One may also note the impact of the Protestant Reformation upon the governance of the Scottish universities. At the University of Edinburgh, established in 1582, the government was in the hands of the town council.[7]

This council set down in some detail the rules for the conduct of teachers and students, although it delegated to the principal the day-to-day activities. Cowley contends that the Scottish universities copied the idea of lay involvement from the Dutch, who in turn had adopted it from the Italian universities where after the Middle Ages student power had been broken as the civil authorities took over the control of the universities by appointing lay bodies as governors of both professors and students.[8] Brubacher and Rudy ,however see the development of the lay board particularly in Geneva where Calvin put his academy under the control of four laymen, the executive committee of the town council. This pattern was picked up by universities such as Leyden in Holland,Edinburgh and Aberdeen in Scotland and Trinity in Dublin.[9]

If not invented by the Americans, the concept of the lay board has developed to a greater degree than elsewhere, and the lay board has remained a potent influence in shaping the American system. Or, it may be more accurate to say that the lay board was not so much the shaping influence as the instrument through which the influence could be exerted. In classical terms, the lay board is the material rather than the efficient cause. That is, the lay board has become the sufficient instrumentality through which special interest groups could bring their educational institutions into existence, whether they sought to protect and/or promote a particular religious point of view, foster local community pride, or respond to perceived educational needs. The interest groups constituted the efficient cause, the determing, propelling and active force that created and maintained a particular institution.

Harvard College began with a lay board, attempted to combine the concept with a self-governing board of academics, accepted for a time the dual structure, and ultimately accommodated to a dual lay board. The second colonial college, William and Mary, began with a self-perpetuating Board of Visitors and provided that the president and professors should constitute a "Body Corporate," and that as the institution became more firmly established the president and fellows would be given full authority over the college. The president and fellows did in time gain substantial power, but in 1790 court action reaffirmed the powers of the Visitors and their right to remove professors.[10]

The impetus for the establishment of the first two American colleges came from the governing body of the colony. That for the third college, Yale, came from 10 principal ministers of the colony who constituted themselves as a board and requested a charter from the General Assembly. The process followed by Yale set the pattern for the six other colleges established during the colonial era and was to become the common form for all of the colleges that followed.

The place and power of the lay board was firmly established by the celebrated Dartmouth College Case in the decision handed down by the Supreme Court of the United States in 1819. Dartmouth College had been created out of a small and private foundation for the education of the American Indian. The founder, Eleazar Wheelock, a Congregational clergymen, moved the school to New Hampshire, secured land from the colony, sent fund raisers to England, gained a royal charter and the support of such persons as Lord Dartmouth. The charter allowed Eleazar to name his successor. When John Wheelock, Eleazar's son and named succesor came into conflict with the trustees, he turned to what had then become the state of New Hampshire. The state took control of the college

and renamed it Dartmouth University . The original trustees sued to recover their property, lost in the state courts and went to the Supreme Court of the land. There the state courts were reversed, and the trustees were identifed as the proper owners of the institution, the charter recognized as a binding contract. With the status of the trustees firmly established in law, the founding of small colleges throughout the land became almosta national pastime. Every community, every frontier settlement seemed to want a college. Literally hundreds of institutions were established in the early nineteenth century. Most of them failed to survive, but the principle that any group with the incentive and means could found a college was deeply embedded in the evolving American culture.

The instrumentality of the lay board has given an autonomy and individuality to the American colleges. It is the American mechanism for bridging public accountability and the professional autonomy of the academicians. American postsecondary education has been characterized in terms of decentralization of academic power, development of corporate pride and initiative, competiveness, and the provision of wide choice to students.[11] American society began with a fierce intent to maintain decentralization of power; it was a bit of a task to muster sufficient support among the several states, former colonies, even to adopt a Constitution, and it took a Civil War to maintain a sense of federal union. The corporate pride and initiative that created the many colleges of the land seems only an expression of this same individuality. And the medium of the lay board provided a way to express this individuality. Competitiveness is the force that led to the founding of new institutions and competitiveness is exhibited in scores of ways by the ratings and rankings between states and within states and across the nation, in trying to demonstrate status among graduate programs, in seeking larger enrollments. The pricing policy--students must pay a portion of the costs--as well as an ingrained commitment to service lead to broad choices for students; and the principle of survival seems to be to provide what students want or to convince them and society at large that the college has what students need. Through all of this development the lay board of control provides the means for maintaining individual identity and independence as an expression of decentralization, corporate pride, competition and breadth of choice.

The direct power of the American board of control has waxed and waned over the years. In the eighteenth and nineteenth centuries the power was largely unchallenged. The appearance in the late nineteenth century of the strong university president and of a professional academic faculty in the early years of the twentieth century forced the trustees somewhat into the background. Student disruption in the middle years of the twentieth century caused many boards to reassert their basic authority, and in the 1970s the Association of Governing Boards called upon trustees to "assume a bigger rule in handing such issues as faculty workloads, tenure, and even the content of the curriculum."[12] The lay board of control occupies a difficult position in the latter quarter of the twentieth century as the structure of American higher education has become more complex and more diverse. But there can be little doubt that it has been one of the significant formative influences in the development of American postsecondary education.

State Coordination.--Even as the lay board of control has provided the means for encouraging the development of diversity and individuality in American postsecondary education, another movement has served as a counteractive force encouraging the development of coordinated systems at the state level. The two forces, the independent lay board and the state coordinating authority, often find themselves in conflict in the 1970s. Economic pressures call for greater coordination, while political pressures demand the maintenance of individual and independent institutions.

As previously noted in this essay, the Tenth Amendment to the Constitution of the United States reserved to the several states responsibility for and control of education. As the former colonies sought to build themselves into a single nation, the states became involved in sporadic efforts to establish systems of colleges and universities. Attempts to take over or incorporate existing private institutions into state systems, as in New Hampshire, were short lived, and the resolution of the Dartmouth College case seemed to have a depressing effect on state efforts to build systems of postsecondary institutions. North Carolina, Georgia, Tennessee and Vermont had founded state institutions before 1800, but the University of Georgia was created with a self-perpetuating lay board and received little direct support from the state. Indeed, after 1842 the Georgia legislature for a time ceased providing any financial support for the university. The University of North Carolina also had a self-perpetuating board, and only in 1876, nearly 90 years after its founding did the university have trustees appointed by the legislature and receive direct state appropriations. The University of Vermont was established in 1791, but not until 1810 did the legislature provide that trustees would be elected by both houses of the legislature; until then the university was largely and independent institution. The early state universities were hardly distinguishable from private institutions.

Twenty-two of the present state universities, some of which had been founded as private or semi-private institutions, were in existence in the early 1860s. They were small and limited in scope. The University of Missouri had been in existence since 1839, but in the 1860s, when it could take advantage of the Morrill Act funds, its total enrollment was 46 persons. The University of Minnesota, founded in 1851 and given new life through the Morrill Act funds, numbered two persons in its first graduating class. The University of Wisconsin, established in 1848, also had two graduates in its first graduating class. Kansas University opened in 1866 with a faculty of three. The University of California, opened in 1868, boasted an enrollment of 26, three of whom dropped out before the year was far advanced.

The significant growth in the American state universities was in the period between 1890 and 1920, during which the Universities of Michigan, California and Wisconsin, as well as Cornell University were moving into positions of leadership. The Universities of Illinois and Minnesota were emerging as important centers.

The Morrill Act of 1862, in which the federal government provided grants of land for the support of colleges and universities, provided the funds and the incentive for states to take seriously their responsibilities for postsecondary education. But even a half century later, in the early 1900s some states were

still embroiled in debate over whether state tax monies could legitimately be devoted to the support of other than the common schools. Alexander Brody describes, among many other similar cases, the litigation in Kentucky over whether taxes could go to the support of the newly established Agricultural and Mechanical College of Kentucky.[13] Only with the establishment of the University of Kentucky in 1908 and the ruling of the courts that the legislature indeed had the right to create and support a university was the matter laid to rest. But the constitutional power of the legislature to create and support postsecondary institutions was still challenged in other states.

Development of state coordinated systems had to await the development of significant state institutions, and state created and supported higher education was in large part the development of the twentieth century in the United States. Until the 1940s the majority of college students in the United States were enrolled in private institutions. The growth in state created and supported postsecondary education since the 1940s has created new conditions within the states and has led to new forms and structures.

State created and supported postsecondary education followed the same governance pattern that had been established during the cononial era, in that each new institution was established with a separate lay governing board to supervise its operations. In time, however, several institutions of similar type within a state were placed under a single board. The first such groupings were of normal schools and teachers colleges. Then various agricultural colleges and institutes were placed under the board of the land-grant college. In 1905 Florida went a step further and established a single governing board for all postsecondary institutions in the State. Iowa followed in 1906. By 1932 eleven states had boards of this type.[14] In a study released in 1952, the Council of State Governments reported that of 367 separate state institutions of higher education then in existence, 127 were governed by separate, individual boards. The remaining 240 were grouped in various ways under the jurisdiction of 41 governing boards. In 12 of the states, all institutions were grouped under a single governing board.[15] Glenny's study, published in 1959, reported the same number of state-wide governing boards and five coordinating boards. Under the coordinating board arrangement, each institution retains its own governing board but certain functions are undertaken for the state as a whole by the coordinating agency.[16] In 1971 Berdahl reported 19 single state-wide governing boards, 27 coordinating boards and 4 voluntary or no state coordinating function.[17] He was able to say that practically all states at that time had some type of formal coordinating structure and that while single governing boards were apparently not increasing rapidly, the coordinating boards were being given more regulatory powers.[18] By 1972 Halstead was able to identify two more governing boards, 21 in all. The coordinating boards had decreased by one, as had the voluntary associations.[19] The Chronicle of Higher Education listed 22 governing boards in December, 1977, adding one to Halstead total.[20]

Governing boards relate only to the state created and supported institutions, while coordinating boards may also have some responsibility for working with private institutions in the state. But private institutions and all postsecondary institutions are covered by a new development set in motion by the federal Higher Education Amendments of 1972. Section 1202 of the Amendments requires any states that wants to receive federal assistance under Section 1203, which authorizes grants and assistance for comprehensive statewide planning, to establish a state postsecondary commission that is broadly and equitably representative of various types of postsecondary educational institutions.

The states at first moved slowly in taking advantage of the "1202 funds," but by mid-1978, virtually every state had established a "1202 Commission" and was involved in some form of statewide planning activity. The intent of the federal legislation was to encourage states to make use of all postsecondary resources within their respective boarders and to develop comprehensive and coordinated systems of education.

By 1978, accordingly, the United States had in place the mechanisms for developing statewide systems of education at the postsecondary level. The costs of maintaining the state systems and the continuing demands of the constituencies for more services seem inevitably to be forcing the states more and more toward integrated systems with more specific charges going to the several institutions to specialize in some areas and to move back from others. A study conducted for the American Association of State Colleges and Universities makes the following comments:

> The trend since 1960, and particularly since 1969, has been toward more state coordination, in many cases with a substantial increase in the power of the coordinating agency to directly control individual institutions. . ./It is/ clear that some critical trends are beginning to develop. One change is the development of the "Secretary of Education." There are four of them now and a number of states are considering the office. This has long-term significance for the operation of institutions because it is a completely different concept in administering education in the states. The Secretary of Education takes education . . . and makes it part of the executive branch of government.[21]

The report contends that the consequences of the moves now underway will be to remove educational decisions farther and farther from the the institutional and thus the critical educational base. More and more detailed decisions are likely to move from the institutions and their boards to the Governor's office.

Just what the consequences of these new movements will be remain yet to be determined. It does seem, however, that the long period of individuality and unrestricted development may be coming to an end, that more coordinated efforts will be undertaken, and the shape of postsecondary education will change in significant ways. The changes will not take place without political battles, but some kind of uneasy balance between autonony and coordination will have to be effected.

Federal Regulatory Agencies.--The long term consequences of vesting control of educational institutions in independent lay boards has been the expansion in number and type of postsecondary institutions in the United States. The emergence of state-wide coordinating authorities is having the effect of removing some of the historic autonomy of individual boards, and the creation of state-wide governing boards has effectively pressed the individual institutions into single state-wide systems wherein institutional roles are being more narrowly defined. These later movements clearly signal a general drift from institutional autonomy to greater coordination and cooperation within the individual states. The third movement, also pressing for more coordination and cooperation is the entrance of federal regulatory agencies into the operation of postsecondary institutions.

While the federal government has no constitutional basis for being involved in any specific way in matters influencing the operations of postsecondary institutions, federal agencies have in significant ways influenced the shape of these institutions. The earliest points of contact were through the grants of federal lands to states for the support of education. When Viriginia offered to cede her claims to land north of the Ohio River in 1784, two years later Massachusetts and Connecticut followed suit. Congress then had control of large tracts of land, set up procedures whereby states could be formed out of these territories and in the Northwest Ordinance (1785) determined that prior to the sale of any public lands they should be surveyed into townships six miles square and that Section 16 of each township should be reserved for the maintenance of a public school. Subsequent ordinances and the sale of a large tract to the Ohio Company established the basis for grants of lands to states for the support of higher education. By 1857 some 60,000,000 acres of public land had been set aside for the common schools, and an additional 4,000,000 acres in 15 states had been designated for the endowment of universities. In 1862 the passage of the Morrill Act provided each state in the Union with 30,000 acres of public land for each senator and representative in Congress. Income from the sale of the land was to go to the endowment of of higher institutions that would include in their curricula, in addition to any other subjects, courses in agriculture and mechanic arts. Thus, without entering directly into the affairs of the individual states--no state had to accept the grant--Congress effectively reshaped American higher education through the creation of the land-grant universities.

Out of land-grant legislation, as Babbidge and Rosenzweig observe, two principles that deeply influenced subsequent federal policy emerged.

> On the one hand, the rationale of the legislation was based upon national needs for trained manpower, in certain specified fields of study, though it recognized the importance of academic autonomy on the part of beneficiary institutions. Secondly, in not limiting benefits of the land-grant legislation to public institutions, it served as a precedent for all subsequent Federal legislation.[22]

While promoting national interests, the federal government sought to maintain the integrity of the states and individual institutions. And the federal provisions were extended to private as well as public institutions. Both principles have continued to be observed, although not without periodic debate and court tests.

In 1867 Congress created a Department of Education, established primarily as a fact-gathering and information-disseminating agency. It was also provided that the new agency was to "otherwise promote the cause of education." Within two years, 1869, the Department had been reduced to the status of an Office and later became a Bureau under the Department of the Interior. Over the years this agency has variously been an independent office and an organization under Departments. In 1973 it is an office under the Department of Health, Education, and Welfare. President Carter has recommended that it be identified as a separate Department with its own Secretary, a return to the original status of 1867. Throughout its history the agency has been primarily a fact-gathering and information-disseminating agency. Certain divisions within it, however, have taken on the attributes of regulatory agencies during the 1970s.

The 78th Congress in 1944, even before the end of World War II took unprecedented action in enacting Public Law 346, the more popularly known "GI Bill," which during its lifetime supported almost two-and-one-half million students in higher education. Part of its impact can been gathered from the increase in enrollments in postsecondary institutions in 1939 of 1,365,000 to over 2,500,000 in 1949. Even more important is the fact that the Bill made it possible for many persons who would not otherwise have considered postsecondary education to enter college and complete degrees. Because the children of college educated parents are more likely themselves to enter college, the GI Bill had a long range cummulative effect of increasing in significant ways the college-going population in the United States. Subsequent "GI Bills" have had the effect of forging a strong link between the federal government and postsecondary educational institutions.[23] To which must be added the links forged by the call of the federal government upon colleges and universities during the World War II years and after for technical and research assistance.

The point of contact between the federal government and postsecondary educational institutions is federal spending. Congress taxes and spends. The expenditures are made in the light of demands of the constituency and/or the special concerns of Congress. The federal government promotes activities which are viewed as a contribution to the general welfare and purchases services which educational are especially equipped to provide. In the late 1970s the federal government provided nearly 30 percent of the current income for U.S. colleges and universities. But this is only an estimate. As one government document observes, "There is no single total for Federal funds for education that is meaningful for all purposes, but there are many possible totals which may be constructed to service particular needs." [24] One table in the document identifies in broad categories the government agencies providing funds for postsecondary education; 26 groupings are shown, and each of these has many subunits involved in spending federal monies.

With the granting of funds by so many agencies and without a single overall control on the funds , there is understandably a concern that the funds are used for the purposes designated and by legitimate educational institutions. With more than 3,000 postsecondary educational institutions potentially able to claim funds, there must be a means for determining which institutions are eligible for the funds. It is at this point that regulations enter the scene.

David Trivett's monograph on institutional eligibility traces the steps by which the regulation has developed.[25] He notes that because the federal government has no established mandate relating to education, it must "deal with established institutions of higher education and private agencies with its hat in its hand." In the absence of a clear constitutional directive regarding federal aid to education, the government must work through nationally recognized, nongovernment accrediting agencies, and this makes accreditation equivalent to eligibility. The steps leading to this marriage of convenience are, in general terms: (1) One of the most significant special purpose funding efforts was the Servicemen's Readjustment Act of 1944 -- GI Bill -- and in dispensing the funds provided, the Commissioner of Education was authorized to determine the eligibility of individuals and institutions to use the funds; (2) With the Veteran's Readjustment Act of 1952, Congress placed its confidence in non-governmental accrediting agencies as reliable and inexpensive vehicles for state and federal agencies to establish eligibility for receiving the funds, and Congress required the Commissioner for the first time to publish a list of such agencies; (3) With the Higher Education Act of 1965 Congress assigned to the Office of Education the determination, compilation and listing of the institutions eligible to participate in federal education programs; (4) In 1968 the Commissioner, in order to deal with the burden of determining the eligibility of institutions in response to the Act of 1965, established the Accreditation and Institutional Eligibility Staff (since reorganized as the Division of Eligibility and Agency Evaluation) and an Advisory Committee on Accrediation and Institutional Eligibility. The net result is that DEAE must set the standards for the accrediting agencies, which agencies in turn set the standards for individual institutions in terms of educational program, structure and financing. Indirectly the DEAE becomes a governmental regulatory agency influencing the structure of postsecondary education, even as it attempts to recognize the autonomy of the accrediting agencies and the individual institutions under their purview.

But the sources of influence are much more numerous than may be indicated in the determination of eligibility. Robert Andringa reported on a 1975 search of federal programs touching postsecondary education and identified 439 separate statutory authorities affecting postsecondary education.[26] The August 1978 issue of Business Officer, the publication of the National Association of College and University Business Officers, lists 18 of the most significant federal programs placing special requrements upon postsecondary institutions. The programs reange from requirements of the Internal Revenue Service to the special regulations affecting the handicapped, minorities, women. Institutions receiving federal assistance of some type, including aid to students--and this elminates very few institutions--are subject to a wide variety of regulations issued by the federal government. During the early months of 1978 the University of Denver, which has a number of federal contracts, spent more than four months undergoing a Compliance Review under Executive Order 11246, which prohibits discrimination in employment on the basis of race, color, religion, sex and national origin. The review demanded the continuing attention of one full-time person and hundreds of hours of work of staff members throughout the University. Other universities are experiencing the same demands. The outcome had the effect of modifying certain personnel policies as well as changing some of the internal administrative structure.

The impact of federal regulatory agencies is only now beginning to be felt by U.S. colleges and universities. While not involved in a "direct" way in postsecondary education, the federal government is nonetheless coming to exert significant influence on shaping the structures of postsecondary education.

Epilogue.--While other formative influences may be identified, it seems clear to this writer that three of the most significant in explaining the development of the nonsystem of postsecondary education in the United States are: (1) the lay board of control; (2) the development of state coordinating authorities, and (3) the emergence of federal regulatory agencies related to postsecondary education. The overall thrend seems clear -- toward a much more coordinated structure in which the fifty states will develop their own more or less unified systems of postsecondary education. Certain regional groupings will assume more significance, and private higher education, while retaining its independence will in more and more ways be related to the evolving state systems. The latter quarter of the twentieth century in the United States will see more significant change in the structure of postsecondary education than has been experienced in the more than a century following the passage of the Morrill Act in 1862.

NOTES

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